

FREQUENTLY ASKED QUESTIONS

What are the rules of conduct, also known as “ethics rules,” that apply to District government employees?

District of Columbia Government Standards of Conduct For Employees or the "ethics rules" are found in Chapter 18 of the District Personnel Manual (“DPM”) and are accessible online under “Publications” at <http://dcop.dc.gov>. These rules form the basis for ethical conduct expected of District government employees. A violation of these rules could result in disciplinary action. Each District government employee should become familiar with the rules, and seek additional guidance from agency ethics counselors if questions or concerns arise.

What is the purpose of the ethics rules? Why do we have them?

High standards of honesty, integrity, and impartiality are essential standards for District government employees. The District government ethics rules are designed to guide and regulate District government employees in order to achieve these ethical standards. Observance of the ethics rules by District government employees adds to the overall appearance of integrity, promotes government efficiency, and maintains the public’s trust and confidence.

In a nutshell, what are the basic prohibitions contained in the ethics rules?

DISTRICT GOVERNMENT EMPLOYEES SHALL NOT:

Use their government job for personal gain or for the gain of others;

Disclose confidential government information acquired on the job or use that information for a private (non-government) purpose;

Solicit or accept gifts in their official capacity from persons doing business or regulated by the District government;

Appear before District government agencies or courts on behalf of private interests or representing private interests in District government matters;

Engage in political activity while on duty (see, Hatch Act at www.osc.gov follow link for Federal Employees);

Solicit funds for political campaigns while on or off duty; and

Seek a job or discuss job possibilities with a private (non-government) person or firm with which the District government employee is dealing in his or her government job. (See generally, [Seeking Employment Guidance.pdf](#))

Are there any criminal laws which relate to ethics that apply to District government employees?

Yes, the federal criminal conflict of interest statutes are found in Title 18 of the United States Code, §§ 201-216. These laws cover the following:

- **Bribery** - prohibition on accepting payment or something of value in exchange for an official act;
- **Representation activities** - prohibition on representing a non- District government entity before a District government agency or court, or receiving payment for such activities;
- **Conflict of interest** - prohibits a District government employee from taking any action in his or her job relating to his or her own financial interests. In addition, the District government employee may not take action in his or her job relating to the financial interests of other individuals (such as the employee's spouse, minor child, non-government employer, organization employee is affiliated with as an officer or board member, an employer with whom employee has arrangements for future employment upon leaving District service); and
- **Additional compensation** – prohibits a District government employee from seeking or accepting anything of value from a private source for doing his or her government job.

The penalty, if found guilty of violating one of these provisions, may be a fine or imprisonment. The Public Integrity Section of the Justice Department or the United States Attorneys Office is responsible for prosecuting violations.

To whom do these rules and laws apply?

The ethics rules apply to all District government employees, except employees in independent agencies. The independent agencies and the OCFO may develop their own rules or choose to follow the ethics rules in Chapter 18 of the DPM. An employee of an independent agency should check with agency officials to determine what rules apply.

The ethics rules in Chapter 18 also apply to the Mayor, the Chairman and each Member of the Council of the District of Columbia, the President and each member of the Board of Education, and members of the various boards and commissions.

The federal criminal conflict of interest statutes (18 USC §§ 201-216) apply to all employees and officials of the District government, including employees of independent agencies.

What is an ethics counselor?

The D.C. Ethics Counselor is an employee of the Office of the Attorney General for the District of Columbia. He/She provides ethics advice to District government officials and agency ethics counselors about the ethics rules and the federal conflict of interest statutes. Each agency has its own ethics counselor who provides advice within their respective agencies. **All oral communications between District government employees and an ethics counselor are confidential and may not form the basis for any civil or criminal liability.**

What happens if a District government employee violates the ethics rules?

The ethics rules form the basis for ethical conduct expected of District government employees. A violation of the ethics rules could result in disciplinary action or, for certain offenses, prosecution under related federal criminal conflicts of interest statutes. In addition, District government employees must strive to avoid any action that would create the appearance that they are violating the law or ethical standards. Each District government employee should become familiar with the rules, and talk to his or her agency ethics counselor to seek additional information.

The District Office of Campaign Finance enforces the ethics rules for all high level officials (grade 13 and above), including the Mayor, members of the Board of Education, members of boards and commissions, and members of the Council of the District of Columbia. Agency heads enforce the ethics rules for all other employees and may take disciplinary action for violation of the rules.

GIFTS

Why is there a law regarding gift-giving to DC government employees?

The basis of the law comes from the criminal code, which prohibits bribery i.e., prohibits employees from accepting anything of value in exchange for an official act. A separate criminal law prohibits government employees from being paid by an outside source for doing their job. The gift rule prohibits a District government employee from receiving things of value from a private (non-government) persons or organizations because such gifts give the public the impression that the government employee will give preferential treatment to the gift-giver and it sends a signals to the gift-giver that he or she can expect preferable treatment from the government employee. Even if the offer of a gift to an employee is totally innocent, it sends the wrong signals to the public.

The prohibitions against accepting gifts is designed to prevent District government employees from:

- Using their office for private gain.
- Giving preferential treatment to any person or entity.
- Losing independence or impartiality in making official decisions.

What is the general rule regarding acceptance of gifts?

There are limited exceptions, discussed below, but the general rule is that a District government employee may not accept a gift from anyone who is giving the gift because of the employee's government position. The District government employee should ask him or herself if the gift would have been offered if he or she was not working for the District government. If the answer is no, then the gift is being offered because of the government position and the government employee cannot accept it. For purposes of the ethics rules, a gift is anything that has monetary value.

Who are the people or organizations from which a District government employee cannot accept gifts?

The people or organizations from which a District government employee cannot accept gifts are referred to as "prohibited sources". A prohibited source is one that:

- Does business with the District government;
- Is seeking to do business with the District government;
- Is seeking some official action by the District government employee's agency;
- Has activities regulated by the District government; or
- May be significantly affected by the District government employee's performance of official duties.

Is there an exception to the gift acceptance rule that permits an employee to accept a gift if it is under a certain amount, like \$25? Or a gift of "nominal value"?

NO! The District government does not have such an exception for nominal value gifts. A District government employee is prohibited from accepting things of value from persons or organizations that are prohibited sources (see question above). As a general rule, when in doubt, a District government employee should not accept a gift.

Does the prohibition against accepting gifts mean that a District government employee may not accept a gift from a family member who also happens to do business with the District government?

If the primary motivation for giving the gift is a personal relationship, then the District government employee may accept the gift. This is one of the limited exceptions to the prohibition against accepting gifts.

What about those lunches where a District government employee is meeting with a private (non-government) person who wants to discuss official matters? May the private person pay for the District government employee's lunch?

Generally, a District government employee may not accept a free meal because it is considered a gift. However, a District government employee may accept a meal or food if the District government employee is on an inspection tour or the District government employee is at an all day meeting where food, such as sandwiches, are provided so that the meeting may continue during lunch. A District government employee may also accept food that is provided when he or she attends a dinner or luncheon meeting where the District government employee is a participant or speaker. The District government employee should pay for his or her own meal in a restaurant, even if work is being discussed.

Can a District government employee give a gift to his or her supervisor?

The general rule is that a District government employee cannot give, make a donation to, or ask for contributions for, a gift to his or her official superior. An official superior includes the District government employee's immediate supervisor and anyone above him or her in the chain of command.

However, a District government employee may give his or her boss a gift on a special, infrequent occasion of personal significance, such as marriage, illness, birth or adoption. In addition, the District government employee may give his or her boss a gift on an occasion that ends the employee-boss relationship, such as retirement, resignation or transfer. For these special, infrequent occasions, employees are also allowed to ask for contributions of nominal amounts for a group gift from fellow employees on a strictly voluntary basis. Gift giving is strictly voluntary; a supervisor is not permitted to pressure a government employee to give a gift or contribute to a group gift.

CONFLICT OF INTEREST

What is a conflict of interest?

The federal criminal conflict of interest law (18 USC § 208) states that a government employee cannot work on government matters that will have an affect on his or her own personal finances. For example, owning stock in a company that would be affected by the District government employee's job could result in such an interest.

Whenever the District government employee has a private interest, financial or other, he or she must avoid taking official action related to that interest. For example, if a District government employee is assigned work which may affect a financial interest, then he or she should avoid taking official action, i.e., a District government employee should discuss potential conflicts of interest with his or her supervisor or ethics counselor to ensure steps are taken to avoid the conflict. The steps that may be taken to avoid a conflict may include: re-assignment of the government matter to another District government employee, selling stocks or resigning from a board of a private organization. In addition, there are certain circumstances when a District government employee may obtain a special waiver from the District agency. Issues related to waiver should be discussed with the District Ethics Counselor.

Should the District government employee consider the financial interests of his family?

Yes, the District government employee must be aware of the financial interests of his or her: spouse, minor children and non-governmental employers. Under the basic conflicts of interest rule, the financial interests of others with whom the District government employee has certain relationships are treated as if they are the District government employee's own interests.

What if the District government employee happens to be involved in a non-government organization (i.e., a local nonprofit group)? Are there any conflict of interest issues he or she should be aware of?

An officer or director of a private organization owes a special legal duty to the organization, whether or not the person is paid or not. This "fiduciary" duty means that the financial interests of the organization are considered those of the director and officer. If a District government employee is an officer or director in a non-governmental organization, he or she may not act on a government matter that would affect that organization.

What does "appearance" mean when talking about ethics? Isn't it true that as long as the District government employee does the honest thing, he or she shouldn't worry about what other people think?

When determining whether certain conduct is ethical a District government employee should consider whether conduct is fair. Suppose you went to a baseball game and you found out that the umpire was the father of a player on one of the teams. A reasonable person would conclude that the umpire should not work that game, because there would be a strong appearance that he might not make the calls fairly and impartially. He may in fact be considered the most accurate umpire in the league, but the appearance would be that he would favor the team

on which his son played, and that appearance of favoritism would be too strong to overcome. In the government, employees owe it to the public to appear free from influence by outside interests.

A District government employee should not act on a matter if a reasonable person, who knew the circumstances of the situation, could legitimately question his or her fairness. For example, a District government employee's fairness might reasonably be questioned if he or she were to work on a project that could directly benefit a relative or a good friend. If a District government employee has a possible conflict then he or she should talk to an ethics counselor.

FUNDRAISING

May a District employee engage in fundraising?

A District government employee may not use his or her title, position, authority, or Government time or equipment, to further the fundraising effort of a non-governmental organization. In other words, a District government employee may not fundraise for a charity, school or other private organization in his or her official capacity or while on government duty.

Fundraising for the government, i.e., fundraising in the official capacity, is highly restricted by other laws and rules, so a District government employee should always ask the agency ethics counselor before engaging in that activity. *See* Mayor's Order 2002-2, January 11, 2002 under "donations" at www.opgd@dc.gov for the procedures for seeking and accepting donations to the government.

POLITICAL ACTIVITIES

Are there rules restricting District government employee from engaging in political activity? What is the Hatch Act?

The Hatch Act is a federal law that provides restrictions on District and federal government employees regarding political activities. Violation of the Hatch Act can result in termination from a government position. The United States Office of Special Counsel ("OSC") enforces the Hatch Act. For more information, go to the OSC website at www.osc.gov and review guidance for "federal" employees. The most important rules to remember are:

- A District government employee may not be a candidate for a public partisan political office. There are some exceptions for certain boards and commissions.
- A District government employee, on or off duty, may not solicit (i.e., ask for, collect, or otherwise handle) political contributions. A District government employee may not host a political fundraiser.

- A District government employee may not use any government resource or asset to engage in political activity.

The ethics information provided on this webpage is provided as a helpful summary of the District ethics rules. Please refer to Chapter 18 of the DPM, 18 U.S.C. §§ 201-216, and consult with agency ethics counselors for additional information or contact the D.C. Ethics Counselor Polly A. Rich in the Office of the Attorney General for the District of Columbia, at 724-5561 or by email at polly.rich@dc.gov.